

104TH CONGRESS  
1ST SESSION

# S. 365

To amend the Federal Water Pollution Control Act to provide for the use of biological monitoring and whole effluent toxicity tests in connection with publicly owned treatment works, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 7 (legislative day, JANUARY 30), 1995

Mr. BROWN (for himself and Mr. CAMPBELL) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend the Federal Water Pollution Control Act to provide for the use of biological monitoring and whole effluent toxicity tests in connection with publicly owned treatment works, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Publicly Owned Treat-  
5       ment Works Biological Monitoring Use Act”.

1 **SEC. 2. BIOLOGICAL MONITORING AT PUBLICLY OWNED**  
2 **TREATMENT WORKS.**

3 (a) Section 303(c)(2)(B) of the Federal Water Pollu-  
4 tion Control Act is amended by striking at the end thereof,  
5 the “.” and inserting a “;”, and adding the following:  
6 “*Provided*, That for publicly owned treatment works, noth-  
7 ing in this Act shall be construed to authorize the use of  
8 effluent limitations which result in the finding of a viola-  
9 tion upon failure of whole effluent toxicity tests or biologi-  
10 cal monitoring tests.

11 “(C) Where the permitting authority determines  
12 that the discharge of a publicly owned treatment  
13 works causes, has the reasonable potential to cause,  
14 or contributes to an in-stream excursion above a  
15 narrative or numeric criterion for whole effluent tox-  
16 icity, the permit shall contain terms, conditions, or  
17 limitations requiring biological monitoring or whole  
18 effluent toxicity testing and establishing a process or  
19 protocols for the identification and reduction of the  
20 cause of the whole effluent toxicity including proce-  
21 dures for ending the identification and reduction of  
22 such toxicity if the source or cause of the toxicity  
23 cannot be located.”.

24 (b) INFORMATION ON WATER QUALITY CRITERIA.—  
25 Section 304(a)(8) of the Federal Water Pollution Control  
26 Act (33 U.S.C. 1314(a)(8)) is amended by inserting “,

1 consistent with section 303(c)(2) (B) and (C) of this Act,”  
2 after “publish”.

3 (c) USE OF BIOLOGICAL MONITORING OR WHOLE  
4 EFFLUENT TOXICITY TESTING AT PUBLICLY OWNED  
5 TREATMENT WORKS.—Section 402 of the Federal Water  
6 Pollution Control Act is amended by adding the following  
7 new section at the end thereof:

8 “(q) USE OF BIOLOGICAL MONITORING OR WHOLE  
9 EFFLUENT TOXICITY TESTING AT PUBLICLY OWNED  
10 TREATMENT WORKS.—Where the Administrator deter-  
11 mines that it is necessary in accordance with section  
12 303(c)(2) (B) and (C) of this Act to include biological  
13 monitoring, whole effluent toxicity testing, or assessment  
14 methods as a term, condition, or limitation in a permit  
15 issued to a publicly owned treatment works pursuant to  
16 this section, such permit term, condition, or limitation  
17 shall be in accordance with section 303(c)(2) (B) and (C)  
18 of this Act, and the failure of a biological monitoring test  
19 or a whole effluent toxicity test at a publicly owned treat-  
20 ment works shall not result in a finding of violation under  
21 this Act.”.

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